



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 500
DENVER, COLORADO 80202-2466

August 25, 2003

Ref: 8ENF-T

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Platte County Commissioners
c/o Alden H. Prosser, Chair
POB 728
Wheatland, WY 82201

Re: Notice of Safe Drinking Water
Act Enforcement Action against
Town of Guernsey
PWS ID#5600023

Dear County Commissioners:

Pursuant to Section 1414(a)(2)(B) of the 1996 amendments to the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

An Administrative Order is being issued under Section 1414 of the SDWA to the Town of Guernsey, Guernsey, Wyoming. This Order requires that the public water system take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations. The Town of Guernsey is in violation of 40 CFR §§ 141.63(a), 141.21(b)(5), 141.26(a)(1), 141.201, 141.21(g)(2) and 141.31(b) for exceeding the maximum contaminant level for bacteriological quality; failure to monitor for bacteriological quality and radionuclides; failure to notify the public of the violations; and failure to report the violations to EPA.



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A copy of the Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Kathelene Brainich at (303) 312-6481.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

August 25, 2003

Ref: 8ENF-T

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Honorable Joseph Hohnholt, Mayor
Town of Guernsey
POB 667
Guernsey, Wyoming 82214

Re: Administrative Order
Docket No. **SDWA-08-2003-0045**
PWS ID # 5600023

Dear Mayor Hohnholt:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that the Town of Guernsey is a public water supplier as defined by the SDWA and that it has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 CFR §§ 141.63(a), 141.21(b)(5), 141.26(a)(1), 141.201, 141.21(g)(2) and 141.31(b) for exceeding the maximum contaminant level for bacteriological quality, failure to monitor for bacteriological quality and radionuclides; failure to notify the public of the violations; and failure to report the violations to EPA.

Violating the enclosed Order may lead to (1) a penalty of up to \$27,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering you to comply.

A Small Business Regulatory Enforcement and Fairness Act (SBREFA) information sheet, U.S. EPA Small Business Resources, containing information on compliance assistance resources and tools available to small businesses, is enclosed with this letter. Small governments are also included under SBREFA, and

the enclosed fact sheet does discuss resources which may also be available to small governments. Also, there is a compliance assistance center for small governments, the Local Government Environmental Assistance Network (LGEAN). LGEAN can be accessed at www.lgean.com or by calling (877) 865-4326. SBREFA does not eliminate your responsibility to comply with the Act and respond to this information request, nor does it create any new rights or defenses under law.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information should be sent to Kathelene Brainich at the address on the letterhead and include the mailcode 8ENF-T, or call (800) 227-8917, extension 6481 or (303) 312-6481. If you wish to have in informal conference with EPA, you may also call or write Ms. Brainich. If you are represented by an attorney or have legal questions, please call Michelle Marcu, Enforcement attorney, at the above 800 number, extension 6921, or at (303) 312-6921.

We urge your prompt attention to this matter.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures
Order
PN
SBREFA

cc: Pam McClure, Town of Guernsey
Larry Robinson, WY DEQ
Dr. Karl Musgrave, WDH



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF)	
)	
Town of Guernsey)	
Guernsey, Wyoming)	
)	
Respondent)	
)	ADMINISTRATIVE ORDER
Proceedings under Section 1414(g))	
of the Safe Drinking Water Act,)	
42 U.S.C. §300g-3(g))	Docket No. SDWA-08-2003-0045

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 1414(g) of the Safe Drinking Water Act ("the Act"), 42 U.S.C. § 300g-3(g), and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region VIII.

FINDINGS

1. The Town of Guernsey (Respondent) is a municipality and therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the Town of Guernsey Water System (the "System"), located in Platte County, Wyoming, for the provision to the public of piped water for human consumption.
3. The Town of Guernsey Water System has at least 15 service connections used by year-round residents or



regularly serves at least 25 year-round residents and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "community water system" within the meaning of 40 C.F.R. § 141.2.

4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. Part 141.
5. According to an August 17, 2000 sanitary survey by an agent for EPA, Respondent operates a system that is supplied by three wells and serves approximately 1,152 persons per day through 615 service connections. Well #1 was replaced by a new well #4 in May 2001.

FINDINGS OF VIOLATION

I.

1. 40 C.F.R. § 141.21 requires community public water systems with a population of 1,001-2,500 to monitor the water at least twice monthly to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.



2. 40 C.F.R. § 141.63(a) (2) imposes and defines the MCL for total coliform bacteria, applicable to public water systems collecting fewer than 40 samples per month, as no more than one sample collected during the month may be positive for total coliform bacteria.
3. Monitoring results submitted by Respondent for the public water system during October 1999, October and November 2002, and February 2003 exceeded the MCL for total coliform bacteria, in violation of 40 C.F.R. § 141.63(a) (2).

II.

1. 40 C.F.R. § 141.21(b) (5) requires public water systems that collect fewer than 5 routine samples per month and have one or more total coliform positive samples to collect at least 5 routine samples during the next month the system provides water to the public.
2. Respondent failed to collect at least 5 routine samples in December 2002 and March 2003 after a total coliform positive sample in the preceding months, in violation of 40 C.F.R. § 141.21(b) (5).

III.

1. 40 C.F.R. § 141.26(a) (1) requires community water systems to conduct initial monitoring of the water consisting of four consecutive, quarterly samples to



determine compliance with the MCL for radioactivity, as stated in 40 C.F.R. § 141.15.

2. Respondent failed to monitor well #4 after it became a new source in May 2001 for radioactivity for four consecutive quarters during the 3rd and 4th quarters of 2001 and 1st and 2nd quarters of 2002, in violation of 40 C.F.R. §141.26(a) (1).

IV.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any national primary drinking water regulation (NPDWR) violations, including violations of the maximum contaminant level (MCL), maximum residual disinfection level (MRDL), treatment technique (TT), monitoring requirements, and testing procedures in 40 C.F.R. Part 141.
2. Respondent has not provided public notice of the noncompliance detailed in the preceding Sections II and III of this Order, in violation of 40 C.F.R. § 141.201.

V.

1. 40 C.F.R. § 141.21(g) (2) requires public water systems that have failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the violation to EPA within ten days after the system



discovers the violation.

2. Respondent failed to report to EPA instances of noncompliance detailed in Section II, in violation of 40 C.F.R. § 141.21(g) (2) .

VI.

1. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to EPA within 48 hours.
2. Respondent failed to report to EPA the noncompliance detailed in Sections III and IV of this Order, in violation of 40 C.F.R. § 141.31(b) .

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. Respondent shall comply with the MCLs for total coliform as stated in 40 C.F.R. § 141.63. If Respondent's water system has a total coliform MCL violation within twelve months of the effective date of this Order, Respondent shall install and operate continuous disinfection within 90 days of the violation.



2. Upon the effective date of this Order, Respondent shall comply with all sampling requirements specified in 40 C.F.R. § 141.21(b)(5). If Respondent's water system has one or more total coliform positive samples in a month, Respondent shall collect at least 5 routine samples during the next month the system provides water to the public. Respondent shall report analytical results to EPA within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
3. Within 30 days of the date of this Order, Respondent shall begin monitoring the water for radioactivity for four consecutive quarters, as required by 40 C.F.R. § 141.26(a). Respondent shall report the results to EPA within the first 10 days following the month analytical results are received, as required by 40 C.F.R. § 141.31(a).
4. No later than one year from the effective date of this Order, Respondent must provide public notice of the violations specified under the Findings of Violation in Sections II and III, in this Order **OR** Respondent may use an annual report detailing all violations and situations that occurred during the previous twelve months, to return to compliance with 40 C.F.R.



§§ 141.201, 141.204 and 141.205. This notice shall be given by (1) mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the System; AND (2) any other method reasonably calculated to reach other persons served by the system, if they would not normally be reached by the notice, such as publication in a local newspaper; delivery of multiple copies for distribution by customers that provide their drinking water to others; posting in public places or on the Internet; or delivery to community organizations. The system must repeat the notice annually for as long as the violation, variance, exemption, or other situation persists. If the public notice is posted, the notice must remain in place for as long as the violation, variance, exemption, or other situation persists, but in no case less than seven days. Respondent may use the Consumer Confidence Report ("CCR") to provide public notice as long as (1) The CCR is provided to persons served no later than 12 months after the system learns of the violation or situation; (2) The public notice contained in the CCR follows the content requirements under 40 C.F.R. § 141.205; AND (3) The CCR is distributed following the delivery requirements



under 40 C.F.R. § 141.204(c). Upon the effective date of this Order, Respondent shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation.

Respondent shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

5. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA within ten days after the system discovers the violation.
6. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to EPA within 48 hours.
7. Reporting requirements specified in this Order shall be provided by certified mail to:

Kathelene Brainich
U. S. EPA Region VIII (8ENF-T)
999 18th Street, Suite 300
Denver, Colorado 80202-2466

GENERAL PROVISIONS



1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order, in an action instituted under Section 1414(g) (3) (A) of the Act, 42 U.S.C. § 300g-3(g) (3) (A), may subject the Respondent to an administrative civil penalty of up to \$25,000 per day of violation, under Section 1414(g) (3) (B) of the Act, 42 U.S.C. § 300g-3(g) (3) (B), or a civil penalty of not more than \$27,500 per day of violation, assessed by an appropriate U.S. district court under Section 1414(g) (3) (C) of the Act, 42 U.S.C. § 300g-3(g) (3) (C).
3. Violation of any requirement of the SDWA or its implementing regulations, in an action instituted under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b), may subject Respondent to a civil penalty of not more than \$27,500 per day of violation, assessed by an appropriate U.S. district court under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).
4. The effective date of this Order shall be the date of issuance of this Order.



Issued this 25TH day of August, 2003.

David J. Janik

Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

**IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE
REGIONAL HEARING CLERK'S OFFICE.**

THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON AUGUST 25, 2003.

